THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No: 442 of 2006

DATED: 06.01.2006

Between:

M/s. Bharath Traders Rice Mill

Kothapally village, Kotgir Mandal

Nizamabad Districts, rep., by its

Lease holder Sri Mohd. Shaik Ahmed.

... PETITIONER

AND

The Collector (CS),

Nizamabad.

... RESPONDENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 422 of 2006

ORDER:-

This writ petition is filed to direct the respondent herein to return the Bank guarantee by permitting the petitioner-Mill to remit Rs.39,413=70 towards the value of the 15% of the confiscated stocks pursuant to the orders, dated 05.12.2002, passed in Crl.A.No.48 of 1998, by the District Judge, Nizamabad and consequently declare letter dated 11.07.2003, as illegal and arbitrary.

The petitioner questions the order of the learned District Judge, Nizamabad, in Crl.A.No.48 of 1998, dated 05.12.2002. The petitioner is one of the leaseholders of the rice mill. On a report submitted by the Inspector, Vigilance Cell, the Collector, Nizamabad, took up the case and initiated proceedings under Section 6A of the Essential Commodities Act (for short "the Act") and after conducting enquiry, he ordered 50% of the seized stocks or its value to be confiscated under Section 6A of the Act by order, dated 16.03.1998.

Aggrieved by the said order, the petitioner filed Crl.A.No.48 of 1998 under Section 6C of the Act on the file of the Sessions Judge, Nizamabad. The learned Sessions Judge after perusing the relevant records modified the order under appeal by reducing the confiscation to 15% from 50% of the seized stocks. He further observed that the petitioner is entitled to refund of 35% of the confiscated stock or its value.

Learned counsel appearing for the petitioner contended that when the appellate authority modified the order reducing the confiscation from 50% to 15% of the seized stocks and held that the petitioner is entitled to refund of 35% of the confiscated stock or its value, but the respondent ordered confiscation of 15% of the seized stocks only.

The question that was considered by the appellate authority is whether the confiscation of 50% of the seized stock is just and valid and to what extent the confiscation can be reduced.

A reading of the operative portion of the order goes to show that the confiscation of the seized stocks is reduced from 50% to 15%, but in the last sentence it has been held that the petitioner is entitled to 35% of the confiscated stocks or its value. Thus, there is an ambiguity in both the sentences of the operative portion of the order of the District Judge. It is not clear whether the petitioner is entitled to 35% of the seized stocks or only in the confiscated stocks.

In view of the said ambiguity, the order under appeal is set aside and the learned District Judge is directed to consider afresh and dispose of the same in accordance with law.

Accordingly, the writ petition is disposed of. No order as to costs.

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06.01.2006

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